

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Wayne F. Bell

v.

Case No. 09-cv-135-SM

Hillsborough County
Department of Corrections,
Superintendent, et al.

ORDER

Re: Document No. 18, Motion for Reconsideration of Order on Report and Recommendations

Ruling: Denied. The motion seems to conflate the Magistrate Judge's Report and Recommendation (recommending denial of Bell's request for injunctive relief) (docket no. 14) and the Magistrate Judge's Order (docket no. 15) upon preliminary review and construction of Bell's pleading (see 28 U.S.C. Section 1915A(a)). I will assume the defendant(s) do not seek to overturn the recommendation and decision not to afford Bell injunctive relief. The Magistrate Judge's liberal construction of Bell's pleading, pursuant to Section 1915A, seems reasonable, supported, and not an abuse of discretion - recognizing, of course, that interpretation of pro se prisoner complaints is far more art than science. If Bell believes his complaint has been misconstrued, he may say so - but he, not defendants, is the party better suited to determine what he meant or did not mean to say. If the defendants believe dispositive defenses are available to the complaint as construed, i.e. failure to exhaust as required by the Prison Litigation Reform Act, or res judicata, or any number of other potential defenses, they may raise them in an answer or other responsive pleading, or motion to dismiss, or for summary judgment.


Steven J. McAuliffe
Chief Judge

Date: July 17, 2009

cc: Wayne F. Bell, pro se
Carolyn Kirby, Esq.
Todd Hathaway, Esq.